

ESTTA Tracking number: **ESTTA522025**Filing date: **02/15/2013**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Jordan DiMarco		
Entity	Individual	Citizenship	UNITED STATES
Address	Suite 1 PMB 199 1750 30th Street Boulder, CO 80301 UNITED STATES		

Attorney information	Paulo A. de Almeida Patel & Almeida, P.C. 16830 Ventura Blvd., Suite 360 Encino, CA 91436 UNITED STATES Paulo@PatelAlmeida.com Phone:(818) 380-1900
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Registration Subject to Cancellation

Registration No	3669826	Registration date	08/18/2009
Registrant	Dog-Ma, Inc. 821 Virginia Ave. SE Washington, DC 20003 UNITED STATES		

Goods/Services Subject to Cancellation


Class 043. First Use: 2009/03/31 First Use In Commerce: 2009/03/31
All goods and services in the class are cancelled, namely: Pet boarding services; pet day care services

Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
Related Proceedings	Proceeding No. 85371568, Petitioner's Ex Parte Appeal of the refusal of Dogma Catma Pet Sitting (& Design), Ser. No. 85371568

Marks Cited by Petitioner as Basis for Cancellation

U.S. Application No.	85371568	Application Date	07/14/2011
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	DOGMA CATMA PET SITTING		

Design Mark	
Description of Mark	The mark consists of a stylized dog, cat and fish enclosed within a circle. To the right of the circle is the stylized text "DOGMA CATMA". Under the letters "MA CATMA" is the stylized text "PET SITTING".
Goods/Services	Class 045. First use: First Use: 2006/05/01 First Use In Commerce: 2006/05/01 Pet care services, namely, pet sitting

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	DOGMA CATMA PET SITTING		
Goods/Services	Pet care services, namely, pet sitting		

Attachments	85371568#TMSN.jpeg (1 page)(bytes) Petition to Cancel_DOGMA CATMA PET SITTING.pdf (5 pages)(62735 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Paulo A. de Almeida/
Name	Paulo A. de Almeida
Date	02/15/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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)	
Jordan Di Marco,)	
)	Cancellation No. _____
)	Registration No. 3669826
Petitioner,)	Mark: DogMa
)	
v.)	
)	
Dog-Ma, Inc.,)	
)	
)	
Respondent.)	
)	
)	
)	

PETITION FOR CANCELLATION

Petitioner, Jordan Di Marco ("Petitioner"), an individual, believes she will be damaged by Registration No. 3669826 for the mark DogMa, and hereby petitions to cancel the same. As grounds in support of her petition, Petitioner alleges as follows:

PRIORITY OF USE

1. Petitioner is a leading provider of pet care and pet sitting services, and for many years has provided her services under the service mark DOGMA CATMA PET SITTING (the "DOGMA CATMA Mark").
2. Petitioner has continuously used the DOGMA CATMA mark in connection with pet care and pet sitting services, and has invested substantial resources into advertising and providing her services under the DOGMA CATMA Mark since at least May of 2006.

3. As a result of Petitioner's extensive marketing and advertising of the DOGMA CATMA Mark, the DOGMA CATMA Mark represents highly valuable consumer goodwill.
4. On March 28, 2007, Respondent, Dog-Ma, Inc. ("Respondent"), filed U.S. trademark application Serial Number 77143009 for the mark DogMa (the "DogMa Mark") at the United States Patent and Trademark Office ("USPTO") based on the Respondent's bona fide intent to use the mark in connection with "Pet boarding services; pet day care services" in International Class 43.
5. Respondent filed a Statement of Use at the USPTO on July 10, 2009, alleging a first use in commerce date of March 31, 2009.
6. The DogMa Mark was registered on August 18, 2009, and assigned Reg. No. 3669826 by the USPTO.
7. On information and belief, Respondent does not have any basis for claiming rights in the DogMa mark for "pet boarding services" or "pet day care services" prior to Respondent's application filing date of March 28, 2007.
8. Respondent's application filing date for the DogMa Mark in March of 2007 falls at least ten (10) months after Petitioner's first use of the DOGMA CATMA Mark in May of 2006. Thus, Petitioner has priority of use of the DOGMA CATMA Mark based on its earlier use in commerce.

LIKELIHOOD OF CONFUSION

9. Respondent's junior mark DogMa is similar to Petitioner's senior mark DOGMA CATMA PET SITTING, and is likely, when applied to Respondent's services, to

cause confusion, mistake or deception among consumers within the meaning of 15 U.S.C. § 1052(d).

10. Respondent's services are very similar to and are advertised and directed at the same marketing and trade channels, and to the same consumers, as Petitioner's services.
11. Respondent's junior mark so resembles Petitioner's senior mark, and the services are so similar such that the public is likely to view Respondent's mark as denoting an affiliation, connection, or association of Respondent with Petitioner and as to the origin, sponsorship, and approval of Respondent's services by Petitioner, when that is not the case, thereby damaging Petitioner.
12. Upon information and belief, Respondent knew or should have known of Petitioner's prior adoption and use of its DOGMA CATMA Mark, and therefore could not have formed the requisite good faith belief that Respondent is the owner of the mark sought to be registered, and that no other person, firm, corporation or association has the right to use said mark in commerce, and consequently knew that such use is and would be in derogation and violation of Petitioner's rights.
13. Petitioner has been, and will continue to be damaged by the registration of DogMa in that Petitioner's U.S. Trademark Application Serial No. 85371568 was refused by the USPTO based on likelihood of confusion with the DogMa Mark. Further, the continued registration of DogMa will support and assist Respondent in the infringing use of the mark, and will give colorable exclusive statutory rights to the Respondent in violation and derogation of the prior and superior common law trademark rights of Petitioner.

WHEREFORE, Petitioner prays that this Petition for Cancellation be sustained,
and that Registration No. 3669826 be cancelled.

Respectfully Submitted,

Dated: February 15, 2013

By Paulo A. de Almeida
Paulo A. de Almeida
Patel & Almeida, P.C.
16830 Ventura Blvd., Suite 360
Encino, CA 91436
(818) 380-1900

Attorneys for Petitioner,
Jordan Di Marco

PROOF OF SERVICE

I hereby certify that a true and complete copy of the foregoing **PETITION FOR CANCELLATION** has been served on Dog-Ma, Inc., the owner of Reg. No. 3669826 as listed in the USPTO database, on February 15, 2013, via First Class U.S. Mail, postage prepaid to:

Dog-Ma, Inc.
821 Virginia Ave. SE
Washington, District of Columbia 20003

/Paulo A. de Almeida
Paulo A. de Almeida